

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 1617 of 2005

Between:

- 1 B.Vijaya Madhuri D/o.B.Krishna Murthy
R/o.9-3-96, Regimental Bazar, Secunderabad.
- 2 K.Raju S/o.Komuraiah
R/o.9-3-96, Regimental Bazar, Secunderabad.
- 3 G.Ram Mohan S/o.G.Jai Ram
R/o. Plot No.94 Flat No.301, Bindavan Arcade, Rajeevnagar Hyderabad.
- 4 J.Venkateswarlu S/o.Bakkaiah
R/o.Flat No.203, Sushmi Enclave 1-7-181 and 181/A, Bakaram, Hyderabad
- 5 Smt.G.R.Suneetha W/o.Rama Mohan
R/o. Plot No.94 Flat No.301, Bindavan Arcade, Rajeevnagar Hyderabad.
- 6 G.Sudershan Reddy S/o.G.Chandra Reddy
R/o.Flat No.203, Sushmi Enclave 1-7-181 and 181/A, Bakaram, Hyderabad
- 7 Smt.G.Upendra Devi W/o.G.Sudershan Reddy
R/o.Flat No.203, Sushmi Enclave 1-7-181 and 181/A, Bakaram, Hyderabad
- 8 Smt.D.Uttaramma W/o.Janardhan Reddy
R/o.2-2-74/B, Turabnagar, Amberpet, Hyderabad.
- 9 A.Shiva Sanker Chary S/o.Srisailam, 19
R/o.1-7-222, Bakaram, Mushirabad, Hyderabad.
- 10 v.B.Madhavi D/o.Ramachandra Chayr
R/o.1-7-222, Bakaram, Mushirabad, Hyderabad.
- 11 P.Vadagiri S/o.Sailoo
R/o. 1-9=232/13/B/1, Ramnagar, Mushirabad, Hyderabad.
- 12 P.Srinivas S/o.P.Sanjeevulu
R/o.11-4-322/20/51, Chilkalguda, Secunderabad.
- 13 Mukesh Kumar S/o.Hiralal
R/o.6-6-80/1, Devinagar Colony Kavadi Guda, Hyderabad.
- 14 Smt.Ch.Urmila Devi W/o.Ch.Anantha Reddy
R/o.D.R.R. Quarter, Rajendranagar, Hyderabad.
- 15 Smt.P.Sunitha W/o.P.Srinivas
R/o.11-4-322/20/51, Chilkalguda, Secunderabad.
- 16 Smt.K.Rama Devi, W/o.Rama Swamy
R/o.1-9-129/23/C/79, Ramnagar, Hyderabad.

- 17 P.Satyanarayana S/o.P.Venkataiah
R/o.11-1-496, Mylargadda, Chilkalguda, Secunderabad.
- 18 P.Mallikarjuna Rao S/o.P.Venkataiah
R/o.11-1-496, Mylargadda, Chilkalguda, Secunderabad.
- 19 P.Silar Sab S/o.P.Bismillah
r/o.12-10-407/14, Namalagundu Seethafalmandi, Secunderabad.
- 20 Savitha C/o.K.Raju
R/o.9-3-96, Regimental Bazar, Secunderabad.
- 21 K. Gangadhar S/o.K.Mallanna
R/o.11-2-1133/2, Bazar Ghat, Nampally, Hyderabad.

..... PETITIONER(S)

AND

- 1 The Senior Divisional Commercial Manager (Railways) South Central Railways
Rail Nilayam Secunderabad.
- 2 The General Manager, South Central Railways Rail Nilayam, Secunderabad.
- 3 The Divisional railway Manager, South Central Railways Rail Nilayam,
Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ specially writ of Mandamus, declaring the action of the respondents in not opening the tenders of the petitioners along with the others in respect of booth Nos.SC-7; SC-5; SC-2 HYB-1;SC6; HYB-6 HYB-3;SC-6;SC-3;SC-10;SC-18;SC-5;HYB-2 HYB-4 & SC-17;SC13:HYB-7;HYB-8;SC-1;SC-9;HYB-1 and SC-15 of Secunderabad and Hyderabad as illegal, arbitrary, discriminatory and thus violative of Article 14 of the Constitution of India and consequently direct the respondents to open the tender forms submitted by the petitioners in pursuance of the Notification issued by the 1st respondent in Tender Notice No.C/C/14/STD-ISD-PCO/Local call/Fax/Internet Booths/SC/2004 dt.21.9.2004, and pass such other or further orders as this Hon'ble Court deem fit and proper.

Counsel for the Petitioner : MR. P.PANKAJ REDDY

Counsel for the Respondents : MR.G.S.SANGHI

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.1617 OF 2005

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ORDER :

The 1st respondent herein issued a tender notice dated 21-09-2004 inviting sealed tenders for allotment of STD / ISD / PCO / Fax / Internet Booths at the stations specified thereunder under various categories for a period of five years. The petitioners, 20 in number state that in pursuance of the said tender notice, they have purchased tender forms and submitted their tenders on 27-10-2004 together with required documents and the earnest money deposit. However, their tenders were

not accepted by the first respondent on the ground of late submission of the tenders. Aggrieved by the said action, this writ petition is filed.

The petitioners plead that as a matter of fact they submitted their tenders within the stipulated time of 3.00 pm on 27-10-2004. It is alleged that the officials of the respondents' office with a mala fide intention falsely endorsed on their applications as "late submission of application forms" and on that ground their tenders were not opened. The petitioners contend that the action of the respondents is arbitrary, illegal and discriminatory.

On behalf of the respondents, the Senior Divisional Commercial Manager (Railways), South Central Railway, Secunderabad Division filed a counter-affidavit stating that in response to the tender notice dated 21-09-2004, one hundred and forty tenders were received within the time specified in the tender notice. The petitioners submitted their tender forms belatedly and therefore the same were not considered. The plea of the petitioners that they have submitted their tenders before 3.00 PM on 27-10-2004 has been specifically denied and it is stated that the petitioners have not submitted their tender forms in the tender boxes which were kept open upto 3.00 pm on 27-10-2004. They have submitted tender forms to the Officer In-charge of the first respondent after 3.00 pm on 27-10-2004 and therefore the same were marked as 'late tenders'.

As can be seen from the tender notice dated 21-09-2004. the tenders were required to be submitted before 3.00 pm on 27-10-2004. The specific case of the respondents is that the tender boxes were kept open upto 3.00 pm on 27-10-2004, however the petitioners have not submitted their tenders within the specified time. They have subsequently submitted the tender forms to the Officer In-charge of the 1st respondent and accordingly they were marked as 'late tenders'. I do not see any justifiable reason to disbelieve the said version of the respondents. Admittedly, 140 tenders have been received on the basis of the tender notice dated 21-09-2004. In the absence of any material to substantiate the plea of the petitioners that they have submitted their tenders within the specified time, I am unable to hold that the impugned action of the respondents in not considering the tenders of the petitioners

is arbitrary and illegal. At any rate, such a disputed question of fact cannot be enquired into and decided by this Court in Writ Jurisdiction.

It is also relevant to note that there is no allegation of mala fides against anyone of the officials of the respondents. Hence, absolutely no case is made out warranting interference of this Court under Article 226 of the Constitution of India.

The Writ Petition is accordingly dismissed. No costs.

Needless to mention that the interim order granted on 09-02-2005 shall stand vacated.

16th March, 2005.

gbs

To

- 1 The Senior Divisional Commercial Manager (Railways) South Central Railways, Rail Nilayam Secunderabad.
- 2 The General Manager, South Central Railways Rail Nilayam, Secunderabad.
- 3 The Divisional railway Manager, South Central Railways Rail Nilayam,

Secunderabad.

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